

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ADRIAN KEVOR JOHNSON §
VS. § CIVIL ACTION NO. 1:06cv330
WARDEN R. GOEINGS §

MEMORANDUM OPINION REGARDING VENUE

Adrian Kevor Johnson, an inmate confined at the Larry Gist State Jail, filed this petition for writ of habeas corpus. Petitioner is challenging a detainer lodged with his custodian by the St. Gabriel, Louisiana Police Department.

To entertain a habeas petition, the court must have jurisdiction over the petitioner or the custodian. *United States v. Gabor*, 905 F.2d 76 (5th Cir. 1990). When a prisoner is confined in one state and challenges a detainer which has been lodged against him by another state, the prisoner is deemed to be "in custody" in the charging state by virtue of the detainer. See *Rumsfeld v. Padilla*, 124 S.Ct. 2711 (2004) citing *Braden v. 30th Judicial Circuit Court of Kentucky*, 93 S.Ct. 1123 (1973). "Under *Braden*, then, a habeas petitioner who challenges a form of 'custody' other than present physical confinement may name as the respondent the entity or person who exercises legal control with respect to the challenged 'custody.'" *Rumsfeld v. Padilla*, 124 S.Ct. at 2720.

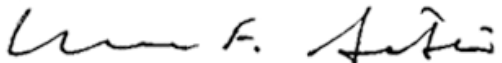
In this case, petitioner is confined within the territorial jurisdiction of this court, but is challenging a detainer which has been lodged against him by a Louisiana Police Department.

Accordingly, both this court and the United States District Court for the Middle District of Louisiana have concurrent jurisdiction.¹

The Supreme Court in *Braden* addressed the jurisdiction and venue of the federal district court in a similar jurisdiction and concluded that while the federal court in the district of confinement may exercise concurrent jurisdiction, the district of confinement will not ordinarily prove as convenient as the district court in the state which has lodged the detainer. *Braden*, 93 S.Ct. 1131, n.15.

As all witnesses and evidence relating to petitioner's challenge to his detainer are located in the Middle District of Louisiana, the court is of the opinion this matter should be transferred to the federal court located in such district. An appropriate transfer order shall be entered.

SIGNED this 3 day of August, 2006.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE

¹ St. Gabriel is located within Iberville Parish. Pursuant to 28 U.S.C. § 98, Iberville Parish is located within the Middle District of Louisiana.